

TOWNSHIP OF OCEAN
PLANNING BOARD
REGULAR MEETING
November 5, 2009

Meeting began at 7:30 PM

The meeting of the Ocean Township Planning Board was held on the above date and time; Chairman Anepete presided and called the meeting to order.

Pledge of Allegiance

STATEMENT: Pursuant to the provisions of the New Jersey Open Public Meetings Act, sending copies of the notice of the meeting properly provided adequate notice of the meeting to the Times-Beacon and the Atlantic City Press. Notice was posted on the bulletin board in the Administration Building.

ROLL CALL

Members Present:	Vince Anepete	Robert Knowles	Rita Sweeney
	Ralph Avellino	Robert Kraft	Dennis Tredy
	James Eckert	William Sneddon	Craig James

(Mayor Robert Kraft attended the meeting in place of the Mayor's Designee, Mr. Ronald Negra)

Members Absent: Gordon VonSchmidt, Lee Eagles

Mr. William T. Sneddon was sworn in to office by Mr. Haines, Attorney for the Planning Board.

Chairman Anepete asked for a motion to take action on the minutes of the October 1, 2009, Regular Meeting. Mr. Tredy made the motion to approve the minutes. Mr. Eckert seconded the motion. All in favor: (aye) Tredy, Eckert, Avellino, James, Anepete.

Chairman Anepete asked for a motion to take action on the voucher list. Mr. Avellino made a motion to approve the vouchers. Mr. Eckert seconded the motion. All in favor: (aye) Avellino, Eckert, Knowles, Sneddon, Sweeney, Tredy, James, Anepete. Abstain: Kraft.

Correspondence list was attached in the board's packet and the Chairman offered that if anyone would like to review the correspondence it is always available in the board office.

Chairman Anepete requested a change in the Agenda moving the Workshop Session scheduled under Board Comments to the end of the meeting due to the attendance present. A motion was made the move Board Comments to the end of the meeting by Mr. Avellino, seconded by Mr. Tredy. All in favor: (aye) Avellino, Tredy, Eckert, Knowles, Kraft, Sneddon, Sweeney, James, Anepete.

OLD BUSINESS

None.

NEW BUSINESS

Lennar Corporation, Amended Final Major Subdivision, Section 6 Greenbriar, Block 57.10, Lots 156-179, Block 57.22, Lots 40-49 and Block 57.25, Lots 1-16 & 38-49

Mayor Kraft recused himself and stepped down. Mr. Eckert also recused himself and stepped down as a member of the Homeowner's Association of Greenbriar.

Mr. Michael Bruno, Attorney for Lennar Corporation approached. This is a request for an amended Preliminary & Final Subdivision approval for Section 6. Lennar is looking to include a new walking path along Heritage Circle between Margate Way and Cape May Court as well as seeking variance relief for 34 of the lots for rear-yard setbacks of 8' where 15' is currently required.

Mr. Charles A. Boyles, FWH Associates, was sworn in by Mr. Haines. Chairman Anepete accepted Mr. Boyle's qualifications. Exhibit A-1 was marked into evidence entitled Amended Final Plat prepared by FWH. Mr. Boyles gave a summary of Greenbriar and explained the application. Lennar is before the board to amend the Final Plat to seek a variance regarding rear-yard setbacks for 34 lots and to provide an additional amenity providing pedestrian access in that section. Mr. Boyles explained the color coding on Exhibit A-1. There are two reasons why we are seeking a variance. #1) there is a grading issue that is associated with those particular lots. (Mr. Bruno passed out to the board smaller copies of Exhibit A-1). Lots 40-49 as well as the first 6 lots along Harvey Cedar Way are lots which do have basements or walk-out basements. That particular type of design does present problems. #2) on the remaining lots, only 2 of the 7 models will fit on these lots without the variances. All lots back up to woods where variances are being requested. There would be no discernable impact on any of the residents of the community or the neighboring properties. CAFRA permits would still be in place. Nothing on those permits would change. There may be some areas where additional trees would have to be taken down, but any additional cleaning would be mitigated by additional replanting of those areas. The applicant is asking for all 34 variances even if they all may not be needed are primarily to make available all the models existing in the community. Mr. Boyles stated that even though the request is for 8' for a rear yard setback, all will not be needed at 8'. Most of them will be 9'-12', dependent upon which model is on which lot. There will be several where the 15' setback will be met, however for design purposes and construction purposes it will make it easier to seek the variances for all the lots at this time. There are two standards that would apply from the MLUL. For those lots where there is a basement or walkout basement grading issue, a topographical condition does apply that merits granting of the variance, that is the hardship variance. In addition, for all the lots including those where grading is an issue, the MLUL C2 criterion applies. In order to provide a consistent mix, a consistent streetscape and with what has been consistent with what has been provided in previous sections, we are seeking a variance. The benefits of providing a consistent type of development with what has been previously approved, outweighs any potential detriments. There would be no detriments.

Committeeman Tredy asked if the lots were smaller than lots in previous sections. Area wise it was said "no they are not" by Mr. Boyles. Mr. Boyles explained there are some issues with grading on some lots creating a drop off.

Robert Harrington, Engineer for East Coast Engineering was sworn in. East Coast Engineering prepares the plot plans for each individual lot at Greenbriar. Mr. Harrington explained that when filling in of a model type on lots is necessary (wider houses on both sides), the model house in the middle would possibly have to be slid back small amount bit to maintain the side yard setback. In some cases, only one model will fit, so in order to allow more flexibility, and not have individual cases

where the lots are restricted, we are asking for a blanket variance where there could potentially be an issue.

Committeeman Tredy voiced concern if some lots will not have a problem, how could the Planning Board grant a variance for it. Mr. Bruno reiterated his opening argument.

Mr. Avellino asked if Lennar is trying to put a bigger house on the same size lot that has been done in other areas. Mr. Bruno asked Mr. Anthony Mignone from Lennar be sworn in to answer that question. Mr. Haines clarified that testimony is usually started and finished from each witness before calling up another.

Mr. Harrington responded to Mr. Avellino's question that it may be the case, but not in every lot. Mr. Avellino continued that if you bought a house five years ago and wanted a sunroom off the back, you had to go for a variance because the setbacks were not there. Now you want to offer that as a selling point to sell houses. You are asking us to do this so that you can sell the houses and it's not conforming to the rest of the community. Mr. Harrington said we are looking at a section of lots along this section of road where we may be limited to two models.

Chairman Anepete asked how many models are available. Mr. Harrington answered 7 and each model has some variations in the front scape. Chairman Anepete asked out of those 7 how many will not fit on these undersized lots. Mr. Harrington answered that it would depend on the lot. The walkout lots would only have one model that fits. Mr. Haines asked if Mr. Harrington could determine numbers of the walkout lots. Mr. Harrington answered in Block 57.22 its lots 41-49 and in Block 57.10 its lots 156-161. With respect to those walkout lots there is only one model that fits within the setback completely and another model that has a deck because it's a walkout and the deck would encroach on the rear yard setback. Mr. Tredy asked if the lots in question are any smaller than any of the other lots in the other sections that are already built. Mr. Harrington spoke that there are two lot sizes in the development and these are consistent with the lots throughout the development. Mr. Avellino said you put houses on those lots and they conform to the setbacks? Mr. Harrington answered yes. Mr. Avellino asked then why can't this be done in this section other than the selling point? Mr. Harrington said that we can but we may wind up with a case where there 8 or 9 lots in a row with the same house on it.

Mr. Anthony Mignone, Vice President/Project Manager of Lennar was sworn in. Mr. Mignone explained that Lennar wants to have consistency throughout the community. This is the largest cluster of lots that we have come across that we have a restriction to a limited number of products. Committeeman Tredy asked why these lots are different if they are the same size and the same as the other sections. Why can't these houses fit? Mr. Mignone answered that a lot has to do with road geometry and the curvature of the road. This has been the largest number of homes we've come across where we have that restriction. Section 5 had a significant number of walkouts. Mr. Avellino asked if these models are bigger than the original models. Mr. Mignone answered that they do have sunrooms on them now that are a standard option and in the past that sunroom has been an option. Mr. Avellino stated that Lennar's decision to put the additional footage on means Lennar is creating the problem that they won't fit. There is a 18-20' stagger of homes in the front as well that Lennar would like to maintain so that the houses don't look like an alley when you drive down the street which they would like to continue with in this area also. Mr. Bruno added that these lots are unique because they back up to woods there is no real detriment to the board granting the variances.

Mr. Tredy stated that there is a problem with having such a short rear yard setback in the future. Someone who has one of these properties can only build within half the distance of the rear yard

setback. It will create yet another variance. It would put a burden on the individual lot owner. Mr. Mignone said he doesn't think many of the homes with walkouts have had patios added. Mr. Tredy suggested he check with the construction office.

Mr. Mignone stated that he wasn't there when Lennar looked at adding the sunrooms on as standard and in his opinion it was an oversight on their part. It was missed. Now we are in the position where only two of seven models can be offered to a customer. That is not marketable. The two models that do fit are not the more popular among the community. We would be in a position where we would now struggle to sell through these 34 home sites with the limitations of two models and would most likely have to introduce new products that would be smaller to fit on these homes. That is something that we are not interested in doing. We don't want to change the dynamics of the community from an appearance or price point.

Chairman Anepete wanted it on the record that it is stated that we are not saying you can only build two models on these 34 properties because you have already stated that several of them are of the right size and won't require the setback. Mr. Bruno wanted that clarified. Mr. Harrington responded that of these 34 lots it is only the two models in some cases it is only one model. That is why we have identified 34 lots. These are the ones that are most restrictive. Chairman Anepete asked Mr. Harrington if, in his opinion, will any other besides these two models fit on any of the 34 lots without a variance. Mr. Harrington answered, no they will not. There are several models that are wider so they would be out of the mix automatically and the narrower houses will not fit there.

Committeeman Tredy asked with all the open space behind these lots, why doesn't Lennar move the line? Give the customers an extra 10' behind so variances would not be needed. Mr. Harrington thought this might impact CAFRA approvals, but Committeeman Tredy disagreed with all the open space back there. Mr. Boyles answered we would have to look at CAFRA, and also for portions of the lots there is a 50' landscape buffer easement that a few of the lots are pretty close to. Mr. Boyles said what we are asking for would accomplish the same thing. It's a matter of lines on the plan. Mr. Boyles feels it's the cleaner solution.

Committeeman Tredy felt the applicant hasn't provided the board with any of the information that they used to come up with their conclusions. Mr. Avellino stated that he didn't feel it was fair to the rest of the residents of Greenbriar. Chairman Anepete was not satisfied with the information presented regarding the restrictions of the houses.

Mr. Bruno suggested they could request to carry the application and allow Lennar to gather some of the information the board had questions on.

Chairman Anepete asked for a motion to open to the public. Committeeman Tredy made a motion to open to the public, seconded by Mrs. Sweeney. All in favor: (aye).

PUBLIC COMMENT OPEN

Mr. Nick Bonamassa, 32 Belmar Blvd was sworn in and spoke. Mr. Bonamassa asked about the walking path and whether that was a separate application. Mr. Bonamassa also had a concern regarding the setbacks. He suggested that if setbacks are going to be changed, they should be changed for the entire community for those who have been refused in the past for rear yard amenities due to setback issues.

Chairman Anepete asked for a motion to close to the public. Mr. Avellino made a motion to close to the public, seconded by Mr. Sneddon. All in favor: (aye).

PUBLIC COMMENT CLOSED

Mr. Bruno asked to carry the application without further notification. Mr. Haines advised the board that if they do decide to carry the application that Lennar be permitted to do so without further notification being needed.

Chairman Anepete asked for a motion to take action on this application. Committeeman Tredy made a motion to carry the application until the December 3, 2009 meeting. Mr. Knowles seconded the motion. Roll Call: (aye) Tredy, Knowles, Avellino, Sneddon, Sweeney, James, Anepete.

Township of Ocean, Minor Subdivision, Block 39, Lot 9, Courtesy Review.

Committeeman Tredy recused himself as this is a Township issue. Mr. Eckert returned to the dais.

Mr. Oris, CMX, Special Projects Engineer for the Township of Ocean was sworn in by Mr. Haines. Chairman Anepete accepted Mr. Oris credentials.

The property is located on Wells Mills Road, also known as Route 532, east of the Garden State Parkway. Property is triangular in shape. There is a driveway that accesses the property from Route 532. The Township of Ocean is currently in the process of purchasing both properties and the purchase of the larger portion of the property following the minor subdivision would be preserved under the Open Space Program. The entire property area is 27.33 acres. The Township is proposing to create two lots. The Township would propose to create a lot of approx 120 ft width by 500 ft depth which would encompass that area on which the cell tower and its equipment sit as well as the access drive. That would be owned by the Township and would remain in its ownership and would not be encumbered with Green Acres restrictions. The remainder lot of 25.91 acres would be preserved under the Open Space Program. The property itself by way of consisting non-conformities there is an existing variance for the height of the structure which was granted through the original application. There are no new variances being created relative to the structures on site. In addition, there was one other item relative to the required fall zone of 185' as stated in Mr. McVicar's letter dated October 28, 2009, and 58' is proposed, that would not change. Once the property is purchased by the Township, both parcels would be owned by the Township. One parcel would have a Green Acres encumbrance, one would not. There is no change in any use of the properties or any structures creating any additional variances what-so-ever. The smaller lot would create two variances in accordance with the MLUL. There are variances associated with this. However, being that the applicant is the Township, this is a courtesy review before the board, not requiring a vote of approval, we are seeking a courtesy review by way of the fact that this is for the town and by the town and therefore, the Township would not be subject to variances of their own zoning. The property is located in the EC Zone which is a 20 acre minimum lot size. The larger lot would be 25.91 acres and exceed the minimum lot width. There would be no front, rear or side yard setbacks because there are no structures on the remainder lot. It is vacant and is intended to remain vacant through the Open Space Preservation Program. Proposed lot 9.02 would be 1.42 acres where 20 acres is required. The reason why we are creating a lot less than the minimum 20 acres is because we are only creating a lot large enough to contain the cell tower site,

its equipment and access to the site. That would put the majority of the property in the Open Space Preservation Program which is the township's intention.

Mr. Oris addressed several points in Mr. McVicar's review letter.

Chairman Anepete gave some history on this project. The tower was put up to fill a gap in the cell phone communication on the parkway. If a gap exists, under the Federal Communications Act the Federal Government can mandate where a tower goes. There was, however, a condition put on this application that the road be curved from Route 532 so you didn't have a straight view back to the tower. That had been agreed upon, but was never done. Chairman Anepete suggested that the approach road from the tower itself to the roadway be curved so it shields from view the tower and maintenance facilities.

Mr. Oris reviewed the original file prior to tonight's meeting. The tower was moved at some point. As such, they decided to keep the road straight possibly. Mr. Oris suggested that the township may want to consider adding some buffering or screening and align the gravel road somewhat differently to provide the same effect but within the 120' width that the town is proposing to create. Mr. Haines asked for clarification as to whether there is a request for buffering or a curving of the road. Mr. Oris asked that any recommendation be phrased such that at the discretion of the governing body, that they would review buffering and/or modifications to the driveway which would increase the buffering, screening, and improve the aesthetics of the site from Route 532.

Chairman asked for a motion to open to the public. Mr. Avellino made a motion to open to the public, seconded by Mrs. Sweeney. All in favor: (aye).

PUBLIC COMMENT OPEN

Mr. Lachaweic approached and was sworn in by Mr. Haines. Mr. Lachaweic asked who owned the property. He feels that Advanced Horizons should pay for renovations to the road; it should not be the Township's responsibility since it was not done from the start. Chairman Anepete agreed.

Chairman Anepete asked about the revenue from the cell tower. Mr. Oris said it goes to the township. However, he said he was not intimate with the financing details of the lease agreement.

Mr. Robert Lange, 2 Shore Drive approached and was sworn in by Mr. Haines. Mr. Lange spoke regarding the revenue from the cell tower vs. the amount of money it is costing the tax payers. He feels it should be private enterprise that owns the cell tower and then pays the township taxes instead. Mr. Haines explained that this is a courtesy review of an application for a subdivision. We are only here to review the application for the subdivision. The Planning Board is not in a position to say yes or no with respect to the purchase. The Planning Board does not have that power.

Chairman asked for a motion to close to the public. Mr. Avellino made a motion to open to the public, seconded by Mr. Sneddon. All in favor: (aye).

PUBLIC COMMENT CLOSED

Chairman Anepete asked for a motion from the board. Mr. Haines added that the motion should be a recommendation that the application be approved to the extent that the Planning Board has any power. And that a buffering and/or jog be put in the road as originally indicated when it came before the Board of Adjustment.

Mr. Avellino made a motion to recommend a buffering and/or jog as Mr. Haines stated. Mrs. Sweeney seconded the motion. All in favor: (aye) Avellino, Sweeney, Eckert, Knowles, Sneddon, James, Anepete.

BOARD COMMENTS

Mayor Kraft returned to the dais.

Mayor Kraft requested that Chairman Anepete begin discussion of the sign ordinance. Chairman Anepete advised that the board should discuss the garage sale ordinance first as this had been discussed at last month's meeting and the board has a draft ordinance in their packet that was prepared by Mr. Yost.

Mr. Eckert made a motion to approve the ordinance as prepared by Mr. Yost. Seconded by Mr. James. All in favor: (aye) Eckert, James, Avellino, Anepete.

The board then began discussion of the sign ordinance. Off-site signage was the main focus of the discussion which concerns the Marina District. Mayor Kraft proposed that the hardship be lifted for the marinas by allowing off-site signage by the parkway off ramp and identify a Marina District with the names of the marinas on it. Potentially have additional signs with arrows pointing in the direction of the marinas. Mayor Kraft gave several examples of where signs could be posted throughout the town. Signs would have to meet architectural design standards. Mayor Kraft would like to start acting on this so that signs are installed by spring when the marinas open for business again.

Mr. Knowles added that he would like the sign to recognize "Old Waretown – Where our history began" on any Marina District sign.

Chairman Anepete added that other businesses are also restricted by this ordinance. Mayor Kraft added that part two of the sign ordinance would be the Route 9 corridor as there is not consistency on the Route 9 signage. Mr. Avellino said the original sign ordinance was originally created by the Township Committee and the Redevelopment Entity. The reason it was developed that way was to clean up Route 9. Mr. Avellino agreed with allowing the Marina District signage on Route 9, but it can be done in a way that is appealing and not detrimental to the Route 9 corridor again. Mr. Sneddon agreed that there should be a specific part of the ordinance that should exclude the Marina District.

Chairman Anepete asked for a motion to open to the public. A motion was made by Mrs. Sweeney and seconded by Mr. Tredy. All in favor: (aye).

Mr. Lachaweic approached. He concurred with the entire sign concept. Mr. Lachaweic said he has been hearing complaints from Main Street due to heavy traffic. People are detouring so they don't have to be stopped at the traffic light on Volunteer Way. Mr. Lachaweic feels there should be signage there for correct speed limit. He gave suggestions for signage and placement. Mr. Lachaweic was approached by the Ocean Breeze diner would also like to be included on any parkway signage for restaurants which would also tie into the Bay Point Terrace restaurant.

Mr. Spencer Hondros, 65 Pennsylvania Avenue. Mr. Hondros let the board know that there are governmental signs required to be put up especially if you are a "clean marine". Mr. Hondros would like to make sure that these (on-site) signs be excluded as they are part of the sea grant and clean marine programs.

Chairman Anepete reiterated that the Planning Board does not create ordinances.

Mr. Avellino suggested that any draft be offered to be viewed by the marina owners prior to any decisions being made.

Mayor Kraft asked Mr. Haines if he thought this could be perfected by the end of the year. Mr. Haines suggested the marina owners submit what they would like to see from these signs. Mayor Kraft said that is why they are here to let us know what it is they want and need to make this successful. Mr. Tredy suggested putting names on our township signs since the Township owns them.

Mr. Robert Lange, 2 Shore Drive, approached. Mr. Lange felt the red signs on top of the street signs were an asset (and blue signs for restaurant). Mr. Lange doesn't think the Township can get a state permit easily. Mr. Tredy was also told that the red signs were effective.

Mr. Fred Brueggemana of Key Harbor Marina approached. Mr. Brueggemana said he has a restaurant on this property as well. When temporary signs are put up, the volume of traffic that goes into the restaurant doubles. Having a sign on Route 9 is beneficial to the marinas and restaurants. Mr. Brueggemana encouraged the board to move forward on this.

Mr. Stan Bystrek, Baltic Avenue approached. Mr. Bystrek feels the ordinance be tailored to the business type, or the zoning districts.

Mr. Hondros approached again. Mr. Hondros brought up the fold-out map that is given out. It is incorrect in many ways. Mr. Hondros feels that the businesses of Waretown should be given the opportunity to advertise on the map instead of businesses from Barnegat and Lacey. Attractions in our own town should be highlighted. Mayor Kraft suggested that we solicit another company to redo and start over and get the new businesses listed. Mr. Sneddon gave some history on the map and how it evolved.

Mr. Lachawiec approached and spoke again regarding the map. He also feels the map should be redone. In May it was proposed that we also look to advertising in places where we felt revenue could be generated from out of town. Mr. Lachawiec felt this should be brought up at the Township Committee level to form a sub-committee to check into this further.

Mr. Haines reiterated that marina owners who would like to put signs out should submit a letter to the Township Committee or the Planning Board so that whomever prepares this ordinance can draft something that is appropriate to what marinas are looking for.

A motion was made to adjourn the meeting by Mr. Sneddon. It was seconded by Mr. Knowles. All in favor: (aye).

Meeting was adjourned at 9:41 P.M.

Respectfully submitted,

Beth O'Connor
Secretary